

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

July 27, 2010

DIVISION ONE

Court convened at 9:00 a.m.

Present: Mallano, P.J., Rothschild, J., Chaney, J., Johnson, J. and S. Stahl, Deputy Clerk.

Each of the following:

B212849 Rungrueng v. Hoang
B213643 People v. Jones
B214028 People v. Cortez
B214853 People v. C. A.
B214907 People v. Moreno
B215794 People v. Reyes
B216516 People v. Iniquez
B216578 People v. Collins, Jr.
B217706 People v. Garcia
B220226 DCFS v. J.H.
B222178 DCFS v. J.P.
B222536 DCFS v. A.H. & Y.P

Argument waived, cause submitted.

B216071 People
 v.
 Escalante

Merits:

Argued by James Koester for appellant. Respondent previously waived argument. Cause submitted.

DIVISION ONE (continued)

B219934 Mito, et al.
 v.
 Temple Recycling Center Corporation, et al.

Merits:
Argued by Justin G. Lynch for appellants and by Mark W. Flory for respondents. Cause submitted.

B213696 People
 v.
 Heeter

Merits:
Argued by Joanna Rehm for appellant and by Steven E. Mercer, Deputy Attorney General, for respondent. Cause submitted.

Mallano, P.J. leaves the bench.

B215897 Isaian
 v.
 Madadian, et al.

Merits:
Argued by Keyran Samini for appellant and by Robert C. Burlison, Jr. for respondents. Cause submitted.

Mallano, P.J. returns to the bench.

Chaney, J. leaves the bench.

B215310 People
 v.
 Hall

Merits:
Argued by Victor J. Morse for appellant and by Rama R. Maline, Deputy Attorney General, for respondent. Cause submitted.

DIVISION ONE (continued)

Chaney, J. returns to the bench.

B219502 Prince
 v.
 Icken Films, Inc.

Merits:

Argued by Anthony Capobianco for appellant and by Albert T. Liou for respondent. Cause submitted.

B219894 Los Angeles County, D.C.F.S.
 v.
 W.C.

Merits:

Argued by Christopher Blake for appellant and by Judith A. Luby, Deputy County Counsel, for respondent. Cause submitted.

Chaney, J. leaves the bench.

B213665 Regency Outdoor Advertising Inc., et al.
 v.
 Stephens, et al.

Merits:

Argued by David P. Crochetiere for appellants Regency Outdoor Advertising Inc., et al. and by Daniel A. Crawford for appellants Stephens, et al. Cause submitted.

Chaney, J. returns to the bench.

Rothschild, J. leaves the bench.

DIVISION ONE (continued)

B215357 Innovay, Inc., et al.
 v.
 The Hartford Casualty Insurance Company

Merits:
Argued by Mark Smith for appellants and by Miriam A. Vogel for respondents. Cause submitted.

Rothschild, J. returns to the bench.

B215179 Silguero
 v.
 Creteguard, Inc.

Merits:
Argued by Christina M. Coleman for appellant and by James A. Anton for respondents. Cause submitted.

B220131 Livermore
 v.
 County of Los Angeles

Merits:
Argued by Henry J. Matusek for appellant and by Richard Kudo, Deputy County Counsel, for respondent. Cause submitted.

Mallano, P.J. leaves the bench.

B224414 J.A.
 v.
 Superior Court, Los Angeles County
 (Department of Children & Family Services)

Merits:
Argued by Rebecca Harkness for petitioner and by Judith A. Luby, Deputy County Counsel, for real party in interest. Cause submitted.

July 27, 2010 (Continued)

DIVISION ONE (continued)

B218767 Fulcrum Financial Inquiry, LLP
v.
Nxsystems, LLC

Merits:

Argued by Phillip M. Brown for appellant and by Richard H. Golubow for respondent. Cause submitted.

Court adjourned.

B222857 People (Not for Publication)
v.
Heasley

The appeal is dismissed.

Mallano, P.J.

We concur: Rothschild, J.
Chaney, J.

B214661 Shahinian, M.D.,
v.
Lafollette, Johnson, Dehaas, Fesler & Ames et al.

Filed order denying petition for rehearing.

DIVISION TWO

B214278 People v. Young (Not for Publication)

The judgments in counts 6 and 8 are reversed. In all other respects, the judgments are affirmed. The matter is remanded for resentencing. The superior court is directed to forward an amended copy of the abstract of judgment to the Department of Corrections and Rehabilitation.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

[illegible]

The superior court's order granting Chavez's petition for writ of habeas corpus is affirmed. Thus, the Governor's 2009 decision reversing the Board's 2008 grant of parole remains vacated, and the Board's 2008 grant of parole is reinstated on the terms and conditions stated therein.

Doi Todd, J.

We concur: Boren, P.J.
 Chavez, J.

[illegible]

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

July 27, 2010 (Continued)

DIVISION TWO (continued)

[illegible]

The judgment is modified to award additional presentence credit, as discussed in this opinion. The judgment is affirmed as modified. The trial court is directed to prepare an amended abstract of judgment reflecting an additional 62 days of conduct credit for a total presentence credit of 248 days and to forward a copy of the amended abstract to the Department of Corrections and Rehabilitation.

Doi Todd, J.

We concur: Boren, P.J.
 Chavez, J.

B213224 Arellano (Not for Publication)
v.
County of Los Angeles, et al.

The judgments of dismissal as to the County and Sheriff Baca are affirmed. Respondents are entitled to their costs on appeal.

Doi Todd, J.

We concur: Boren, P.J.
 Doi Todd, J.

DIVISION TWO (continued)

B217963 Kennedy, et al. (Not for Publication)
 v.
 Farmers Insurance Exchange

The judgment of dismissal is reversed. The trial court is directed to enter a new order overruling the demurrer as to the first and second causes of action for breach of contract and bad faith. Appellants are entitled to their costs on appeal.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

DIVISION THREE

B216557 People (Not for Publication)
 v.
 Francis

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B218954 Tu, et al. (Not for Publication)
 v.
 Bui

The judgment is affirmed. Bui shall recover costs on appeal.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

DIVISION THREE (continued)

B220034 Great Lakes Construction, Inc., et al. (Certified for Publication)

v.

Burman, et al.

The Draftsman Planning and Design, et al.

The order disqualifying Graham & Associates and Bruce N. Graham is reversed and the matter is remanded. Appellants shall recover costs on appeal.

Aldrich, J.

We concur: Klein, P.J.
 Kitching, J.

B220850 Los Angeles County, D.C.F.S. (Not for Publication)

v.

S.A., et al.

The order of the juvenile court is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

DIVISION FIVE

B219514 People (Not for Publication)

v.

Brian Foucher

The judgment is affirmed.

Kriegler, J.

We concur: Armstrong, Acting P.J.
 Mosk, J.

DIVISION FIVE (continued)

B221403 Los Angeles County, D.C.F.S. (Not for Publication)
v.
K. S.

The judgment is affirmed.

Kriegler, J.

We concur: Armstrong, Acting P.J.
Mosk, J.

B217341 People (Not for Publication)
v.
D.J.

The judgment is reversed.

Kriegler, J.

We concur: Turner, P.J.
Armstrong, J.

B215603 People (Not for Publication)
v.
Dennis James Bryley

The judgment is affirmed.

Kriegler, J.

We concur: Armstrong, Acting P.J.
Mosk, J.

July 27, 2010 (Continued)

DIVISION FIVE (continued)

B217401 Steven Kostka (Not for Publication)
 v.
 Therese Anne Kostka

The judgment is affirmed. Respondent(s) to recover costs.

Kriegler, J.

We concur: Turner, P.J.
 Mosk, J.

DIVISION SIX

B219297 People (Not for Publication)
 v.
 Suarez

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
 Perren, J.

B215889 People (Not for Publication)
 v.
 Calderon

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
 Perren, J.

July 27, 2010 (Continued)

DIVISION SIX (continued)

B214810 Dillon
 v.
 Dillon

Filed order denying petition for rehearing.

DIVISION EIGHT

B216950 People (Not for Publication)
 v.
 Miguel Sanchez

The judgment is affirmed.

Rubin, Acting P.J.

We concur: Flier, J.
 Grimes, J.

B214930 People (Not for Publication)
 v.
 Ryan J. Black

The judgment is affirmed.

Flier, J.

We concur: Rubin, Acting P.J.
 Grimes, J.

DIVISION EIGHT (continued)

B214575 People (Not for Publication)
v.
Ralph A. Duarte

The judgment is reversed insofar as it imposes an additional 10-year sentence on the gang enhancement in count 2 and insofar as it imposes a concurrent sentence for count 2. The matter is remanded to the trial court for it to choose the appropriate term of the gang enhancement on count 2 as set forth in Penal Code section 186.22, subdivision (b)(1)(A) and to then determine whether it finds it appropriate to impose or stay the gang enhancements on counts 1 and 2. After it makes those determinations, the sentence on count 2 must be ordered stayed pursuant to Penal Code section 654, until the sentence imposed on count 1 is served. The judgment is affirmed in all other respects.

Bigelow, P.J.

We concur: Rubin, J.
Grimes, J.

B217875 People (Not for Publication)
v.
Gregory Gallarzo

The abstract of judgment is modified to delete the phrase “assault with semiautomatic” that describes Gallarzo’s conviction under Penal Code section 245, subdivision (a)(2), and replace it with the phrase “assault with firearm.” The trial court is directed to modify the abstract of judgment to reflect this change and send a corrected copy of the abstract to the Department of Corrections. In all other respects, the judgment is affirmed.

Rubin, J.

We concur: Bigelow, P.J.
Grimes, J.

DIVISION EIGHT (continued)

B217198 Timothy McLaughlin (Not for Publication)
v.
City of Los Angeles, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Rubin, J.

We concur: Bigelow, P.J.
Grimes, J.

B215899 Filberto Castaneda, et al. (Not for Publication)
v.
Denny's Inc.

The judgment is affirmed. Respondent(s) to recover costs.

Grimes, J.

We concur: Rubin, Acting P.J.
Flier, J.

B214885 People
v.
James Flanagan

Filed order denying petition for rehearing.